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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-341**

13 **ANN MARIE KAKAVAND**
14 **1685 Hopkins Road**
15 **Getzville, NY 14068**

A C C U S A T I O N

16 **Registered Nurse License No. 565204**
Nurse Anesthetist License No. 2613

17 **Respondent.**

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 **License History**

25 2. On or about March 16, 2000, the Board of Registered Nursing issued Registered
26 Nurse License Number 565204 to Ann Marie Kakavand ("Respondent"). The license was in full
27 force and effect at all times relevant to the charges brought herein and expired on September 30,
28 2009.

3. On or about March 22, 2000, the Board of Registered Nursing issued Nurse Anesthetist License No. 2613 to Respondent. The license was in full force and effect at all times relevant to the charges brought herein and expired on September 30, 2009.

JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing (“Board”), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (“Code”), unless otherwise indicated.

5. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

6. Code section 2764, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

7. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

8. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

1 **COST RECOVERY**

2 9. Code section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **CAUSE FOR DISCIPLINE**

7 **(Out-of-State Discipline)**

8 10. Respondent's license is subject to disciplinary action under Code section 2761,
9 subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent's Registered
10 Nurse License No. RN 127630 was disciplined by the Arizona State Board of Nursing ("Arizona
11 Board"). In the action entitled, *In the Matter of the Application for CRNA Prescribing Authority*
12 *Filed by: Ann Marie Kakavand, aka Ann Marie Rutowski, To Prescribe as a Nurse Anesthetist in*
13 *the State of Arizona*, effective March 25, 2009, pursuant to a Consent for Entry of Voluntary
14 Surrender, Order No. 07A-0608049-NUR, Respondent voluntarily surrendered her Professional
15 Nurse License Number RN127630. Respondent was further prohibited from practicing nursing
16 under her multi-state license. The underlying circumstances of the discipline are that Respondent
17 failed to submit to the Arizona Board a complete copy of the New York State Office of
18 Professional Discipline Consent Orders Nos. 21843 and 21844, and failed to disclose that she was
19 discharged for non-compliance from the Florida State Intervention Project for Nurses in that
20 state's disciplinary action.

21 A copy of the Arizona Board's Consent for Entry of Voluntary Surrender Order No. 07A-
22 0608049-NUR is attached as Exhibit A, and is incorporated herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 565204 issued to Ann Marie Kakavand;
2. Revoking or suspending Nurse Anesthetist License No. 2613 issued to Ann Marie Kakavand;
3. Ordering Ann Marie Kakavand to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3;
4. Taking such other and further action as deemed necessary and proper.

DATED: 1/21/10

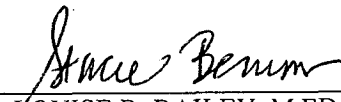
for 
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

EXHIBIT A

Arizona Board's Consent for Entry of Voluntary Surrender Order

ARIZONA STATE BOARD OF NURSING
4747 North 7th Street, Suite 200
Phoenix, Arizona 85014-3653
602-889-5150

IN THE MATTER OF APPLICATION FOR CRNA
PRESCRIBING AUTHORITY FILED BY:

ANN MARIE KAKAVAND; AKA ANN MARIE
RUTOWSKI,

TO PRESCRIBE AS A NURSE ANESTHETIST
IN THE STATE OF ARIZONA.

CONSENT FOR ENTRY OF

VOLUNTARY SURRENDER

ORDER NO. 07A-0608049-NUR

A complaint charging Ann Marie Kakavand, AKA Ann Marie Rutowski, ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. §32-1663 (D)(5), Respondent voluntarily surrenders her license for a minimum of five (5) years.

Based on the evidence before it, the Board makes the following Findings of Fact,
Conclusions of Law:

FINDINGS OF FACT

1. On or about May 3, 2004, Applicant submitted an application for professional nurse licensure and a professional temporary nurse license was issued; Applicant's temporary license lapsed on or about November 2, 2004. Respondent failed to disclose her Florida (FL) State R.N. license.

2. On or about May 10, 2004, a deficiency notice was mailed to Applicant indicating that the Board had not received verification from New York (NY) State, her original state of licensure, and this application was administratively withdrawn.

1 3. On or about April 19, 2005, Applicant re-applied for an Arizona
2 professional nurse license; the professional nurse license, No. RN127630, was issued on April
3 26, 2005.

4 4. On or about August 3, 2006, Respondent submitted her application for
5 CRNA prescribing authority and answered "yes" to question number 20, "Are you currently a
6 participant in a state board/designee monitoring program including alternative to practice
7 discipline, diversion, or a peer assistance program?" Applicant submitted an incomplete copy of
8 a NY State Office of Professional Discipline Consent Order, numbers 21843 and 21844, but
9 failed to provide the Findings of Fact and the complete terms of her stipulated agreement.
10

11 5. On or about August 2, 2006, Applicant answered "no" to the following
12 question on her CRNA application, "Have you ever been terminated from an alternative to
13 discipline, diversion, or a peer assistance program due to unsuccessful completion?" Applicant
14 failed to disclose that she was discharged for non-compliance from the FL State Intervention
15 Project for Nurses (IPN).
16

17 6. On or about November 21, 2006, during an interview with Board staff
18 about her current NY stipulated agreement, Applicant asserted that while working as a CRNA at
19 St. Joseph's Hospital, Syracuse, NY, she failed to properly document in several patients
20 operating room anesthesia records the administration of controlled substances, specifically,
21 Fentanyl and Midazolam, that she removed from the PYXIS. Applicant asserted that she was
22 compliant with all terms of her NY State stipulated agreement.
23

24 7. On or about November 29, 2006, Applicant submitted her written
25 statement to the Board. She provided her work history dating back from 1982. Her most recent
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assignment was that of a CRNA (Locum Tenens) at Jersey Shore Hospital, Jersey Shore, PA, on or about October 2006.

8. On or about January 5, 2007, Board staff spoke with NY State Office of Professional Discipline, Brooklyn/Staten Island, Compliance/Monitoring officer, Diane Sabatelle. Ms. Sabatelle indicated that Applicant reported to their office that she had not been employed in nursing since August 2005. Ms. Sabatelle stated that if Applicant was employed in nursing she would have been required to submit quarterly performance reports.

9. On or about January 11, 2007, Board staff spoke with the North Carolina Board of Nursing Licensing Department staff, Teresa Witt. Ms. Witt stated that on or about early September 2006, Applicant submitted a re-instatement application for her R.N. license. According to Ms. Witt, on or about September 26, 2006, Applicant's NC R.N. license was rescinded because she failed to disclose disciplinary actions in FL and NY and the complaint/investigation in Arizona.

10. On or about December 6, 2006, a voicemail message was left for Applicant at her home number requesting she contact Board staff to further discuss her Arizona investigative complaint. Applicant has failed to respond.

11. On March 21, 2007, Applicant submitted a letter to the Board indicating that she was unable to practice nursing or nurse anesthesia due to a medication illness (brain tumor) and she has placed her license on inactive status.

12. On March 21, 2007, Respondent requested to voluntary surrender her nursing license.

CONCLUSIONS OF LAW

Pursuant to A.R.S. §§32-1606, 32-1663, and 32-1664, the Board has subject

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1 matter and personal jurisdiction in this matter.

2 The conduct and circumstances described in the Findings of Fact constitute a
3 violation of A.R.S. §32-1663(A) and (B), as defined in A.R.S. §32-1601(16)(a), (d), (f), (g),
4 (h), (i) and (j); A.A.C. R4-19-403(B)(1), (7), (9), (16), (17), (18), (20), (25)(a),(26), (27) and
5 (31); and R4-19-515(A)(4)(f)(i), (ii) and (vi).

6 The conduct and circumstances described in the Findings of Fact constitute
7 sufficient cause pursuant to A.R.S. §§ 32-1663 (D)(5) and 32-1664(N) to take disciplinary
8 action against Respondent's license to practice as a professional nurse in the State of Arizona.

9 Respondent admits the Board's Findings of Fact, Conclusions of Law.

10 Respondent understands that she has an opportunity to request a hearing and
11 declines to do so. Respondent agrees to issuance of the attached Order and waives all rights to
12 a hearing, rehearing, appeal, or judicial review relating to this Order.

13 Respondent understands that all investigative materials prepared or received by
14 the Board concerning these violations and all notices and pleadings relating thereto may be
15 retained in the Board's file concerning this matter.

16 Respondent understands that the admissions in the Findings of Fact are
17 conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of
18 determining sanctions in any future disciplinary matter.

19 Respondent understands the right to consult legal counsel prior to entering into
20 the Consent Agreement and such consultation has either been obtained or is waived.

21 Respondent understands that this voluntary surrender is effective upon its
22 acceptance by the Executive Director or the Board and by Respondent as evidenced by the
23 respective signatures thereto. The effective date of this Order is the date the Voluntary
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1 Surrender is signed by the Executive Director or the Board and by Respondent. If the
2 Voluntary Surrender is signed on a different date, the later date is the effective date.

3 Respondent understands that Voluntary Surrender constitutes disciplinary action.
4 Respondent also understands that she may not reapply for reinstatement during the period of
5 Voluntary Surrender.

6 Respondent agrees that she may apply for reinstatement after the period of
7 voluntary surrender under the following conditions, and must comply with current law at the
8 time of their application for reinstatement:

9 The application for reinstatement must be in writing and shall contain therein or
10 have attached thereto substantial evidence that the basis for the voluntary surrender has been
11 removed and that the reinstatement of the license does not constitute a threat to the public's
12 health, safety and welfare. The Board may require physical, psychological, or psychiatric
13 evaluations, reports and affidavits regarding the Respondent as it deems necessary. These
14 conditions shall be met before the application for reinstatement is considered.
15
16

17 Ann Marie Kakavand
18 Ann Marie Kakavand, Respondent

19 Date: 3-17-09

20 ARIZONA STATE BOARD OF NURSING

21 SEAL

22 Joey Ridenour
23 Joey Ridenour, R.N., M.N.
24 Executive Director

25 Dated: 3/25/09

26 BARBI-R/Kakavand, Ann Marie, Hearing Case No. 07A 0608049-SUR

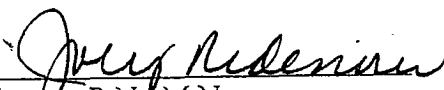
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2 ORDER

3 Pursuant to A.R.S. §32-1663(D)(5) the Board hereby accepts the Voluntary
4 Surrender of professional nurse license number RN127630, issued to Ann Marie Kakavand.
5 This Order of Voluntary Surrender hereby entered shall be filed with the Board and shall be
6 made public upon the effective date of this Consent Agreement. Respondent shall not practice
7 in Arizona under the privilege of a multistate license.
8

9 IT IS FURTHER ORDERED that Respondent may apply for reinstatement of
10 said license after a period of five (5) years.
11

12 ARIZONA STATE BOARD OF NURSING

13 SEAL

14 
15 Joey Ridenour, R.N., M.N.
16 Executive Director

17 Dated: 3/25/09

18 JR/SB:hd

19
20 COPY mailed this 25th day of February, 2009, by First Class Mail to:
21 Ann Marie Kakavand
22 1685 Hopkins Rd
23 Getzville NY 14068

24 By: Amy Foster
25 Senior Investigator, Hearing Dept.
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